

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

MAY 04 2004

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LARRY D. BARTO, STEVEN C. NETTLES
and YIWEI LI

Appeal No. 2004-1048
Application No. 09/825,225

ORDER REMANDING TO EXAMINER

Appellants filed a Reply Brief on April 12, 2004 (Paper No. 16) in response to the Examiner's Answer mailed on March 2, 2004 (Paper No. 14). According to section 1208.03 of the Manual of Patent Examining Procedure (8th ed., Rev. 1, Feb. 2003):

Under 37 CFR 1.193(b)(1), appellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer or supplemental examiner's answer. . . . The primary examiner must then either: (A) acknowledge receipt and entry of the reply brief by using form paragraph 12.47 on form PTOL-90; or (B) reopen prosecution to respond to the reply brief. See MPEP § 1208.02 [emphasis added].

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Accordingly, it is

ORDERED that the application is remanded to the examiner for proper response to appellants' Reply Brief, or to reopen prosecution, and for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

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